

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NECA-IBEW PENSION TRUST FUND
and DENIS MONTGOMERY, on behalf of
themselves and all others similarly situated,

Plaintiffs,

-against-

BANK OF AMERICA CORPORATION, *et al.*,

Defendants.

No. 10 Civ. 440 (LAK) (HBP)

ECF CASE

**DECLARATION OF B. ANDREW BEDNARK, ESQ. IN SUPPORT OF THE BAC
DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR LEAVE TO FILE
A SECOND AMENDED CLASS ACTION COMPLAINT**

I, B. Andrew Bednark, declare under 28 U.S.C. § 1746:

1. I am admitted to practice before this Court and a partner in O'Melveny & Myers LLP, counsel to Defendants Bank of America Corp. ("BAC"); Kenneth D. Lewis; Joe L. Price; Neil A. Cotty; William Barnet, III; Frank P. Bramble, Sr.; John T. Collins; Gary L. Countryman; Tommy R. Franks; Charles K. Gifford; W. Steven Jones; Walter E. Massey; Thomas J. May; Patricia E. Mitchell; Thomas M. Ryan; O. Temple Sloan, Jr.; Meredith R. Spangler; Robert L. Tillman; and Jackie M. Ward (collectively, the "BAC Defendants").

2. I submit this declaration in support of the BAC Defendants' Opposition to Plaintiffs' Motion for Leave to File a Second Amended Class Action Complaint.

3. Attached as Exhibit A is a true and correct copy of excerpts from BAC's third-quarter 2007 Form 10-Q, publicly filed with the Securities and Exchange Commission ("SEC") on November 9, 2007, and available on the Internet from EDGAR, the SEC's Electronic Data

Gathering, Analysis, and Retrieval system, at <http://www.sec.gov/edgar.shtml>, and printed from that site on April 19, 2012.

4. Attached as Exhibit B is a true and correct copy of excerpts from BAC's Form 8-K, Ex. 99.2, publicly filed with the SEC on January 22, 2008, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on April 19, 2012.

5. Attached as Exhibit C is a true and correct copy of excerpts from BAC's 2007 Form 10-K, publicly filed with the SEC on February 28, 2008, and available on the Internet from EDGAR, at <http://www.sec.gov/edgar.shtml>, and printed from that site on April 19, 2012.

6. Attached as Exhibit D is a true and correct copy of the Financial Crisis Inquiry Commission's ("FCIC") January 27, 2011 Media Advisory announcing the release on that same day of the FCIC's report "on the causes of the financial and economic crisis." The Media Advisory is available on the Internet from the FCIC's website, hosted by Stanford University's Rock Center for Corporate Governance and Stanford Law School, at http://fcic-static.law.stanford.edu/cdn_media/fcic-news/2011-0127-fcic-releases-report.pdf, and printed from that site on April 19, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ B. Andrew Bednark

B. Andrew Bednark

Executed: April 20, 2012
New York, New York